

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

UNITED STATES OF AMERICA : 1:16CR77-1  
:   
v. :  
:   
BRIAN KEITH POTTS : FACTUAL BASIS

NOW COMES the United States of America, by and through Ripley Rand, United States Attorney for the Middle District of North Carolina, and as a factual basis under Rule 11, Fed. R. Crim. P., states the following:

On January 5<sup>th</sup>, 6<sup>th</sup>, and 7<sup>th</sup> of 2016, State Bureau of Investigation Special Agent (SA) Rodney White downloaded child pornography via a peer-to-peer network from a computer using an IP address assigned to Gary Potts of Lexington, North Carolina. The peer-to-peer software used by the offender had an identifiable GUID<sup>1</sup> that was recorded by SA White. Gary Potts is the father of BRIAN KEITH POTTS who also resides at the Lexington residence.

On January 15, 2016, at approximately 9:00 a.m., SA White and other law enforcement officers executed a search warrant at the Pott's residence. POTTS and his mother were present. Gary Potts had left for work at 4:00 a.m. POTTS'S mother came to the door and told SA White that POTTS was asleep. SA White asked Ms. Potts if he could

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<sup>1</sup> A GUID, or "globally unique identifier", is a unique reference number that identifies a particular software program on a particular device.

speak with her son and Ms. Potts retrieved him. POTTS stated that he knew how peer-to-peer programs worked and that he used them to download movies and music. POTTS denied downloading child pornography.

Law enforcement officers recovered a desktop computer from POTTS'S room. SA White discovered eighty-one videos depicting child pornography, as defined in Title 18, United States Code, Section 2256(8)(A), on the computer. The videos had been placed in the computer's recycle bin at 9:12 a.m. on January 15, 2016 (the approximate date and time that SA White approached the residence). SA White also discovered the peer-to-peer program with the unique GUID that he had previously identified. The videos and peer-to-peer software were found in the user account "Brian" which was password protected. The videos had created-on dates from December 15, 2015 to January 8, 2016. Two of the videos had created-on dates of January 8, 2016 between 1:00 and 2:00 a.m. Computer forensics revealed that POTTS had logged onto his Facebook account using the computer approximately one hour prior. Further, two of the videos that had downloaded by SA White, one on January 5th and one on January 6<sup>th</sup>, were recovered and had created-on dates of January 5th.

Further, SA White observed that the peer-to-peer software had been used to conduct keyword searches for topics associated with child exploitation content such as "anal pthc" and the names of known

child pornography series. Many of the child pornography videos recovered contained the phrases "pthc" and/or "anal". Finally, SA White observed that google had been used to conduct keyword searches for topics associated with child exploitation such as "how young is too young to try anal".

This the 2nd day of May, 2016.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on May 2, 2016, the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Corey D. Buggs, Esq.

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